

EPA Review Process

The following process reflects a hypothetical scenario where a permit application is raised for EPA review under the provisions of the Programmatic Agreement.

90 Day Review Period

EPA may review available documentation, consult with Indian tribes, where appropriate, and develop proposed comments, objections, or recommendations.

EPA submits to the ACHP a copy of the proposed comments, objections, or recommendations and other pertinent documentation

Within 30 days, the ACHP may provide EPA an advisory opinion regarding the proposed comments, objections, or recommendations. If the ACHP does not submit an advisory opinion within 30 days of receipt of the EPA's proposed comments, objections, or recommendations, and other pertinent documentation, the EPA will exercise its discretion to finalize such comments, objections or recommendations.

EPA will transmit any final comments, objections, or recommendations to FDEP for resolution.
A copy will be provided to the ACHP, the Florida SHPO, and the Indian tribes where appropriate.

EPA will consider, but need not follow, the ACHP's advisory opinion in finalizing its comments, objections, or recommendations.

If EPA objects to a proposed permit...

EPA will hold a public hearing, if requested.

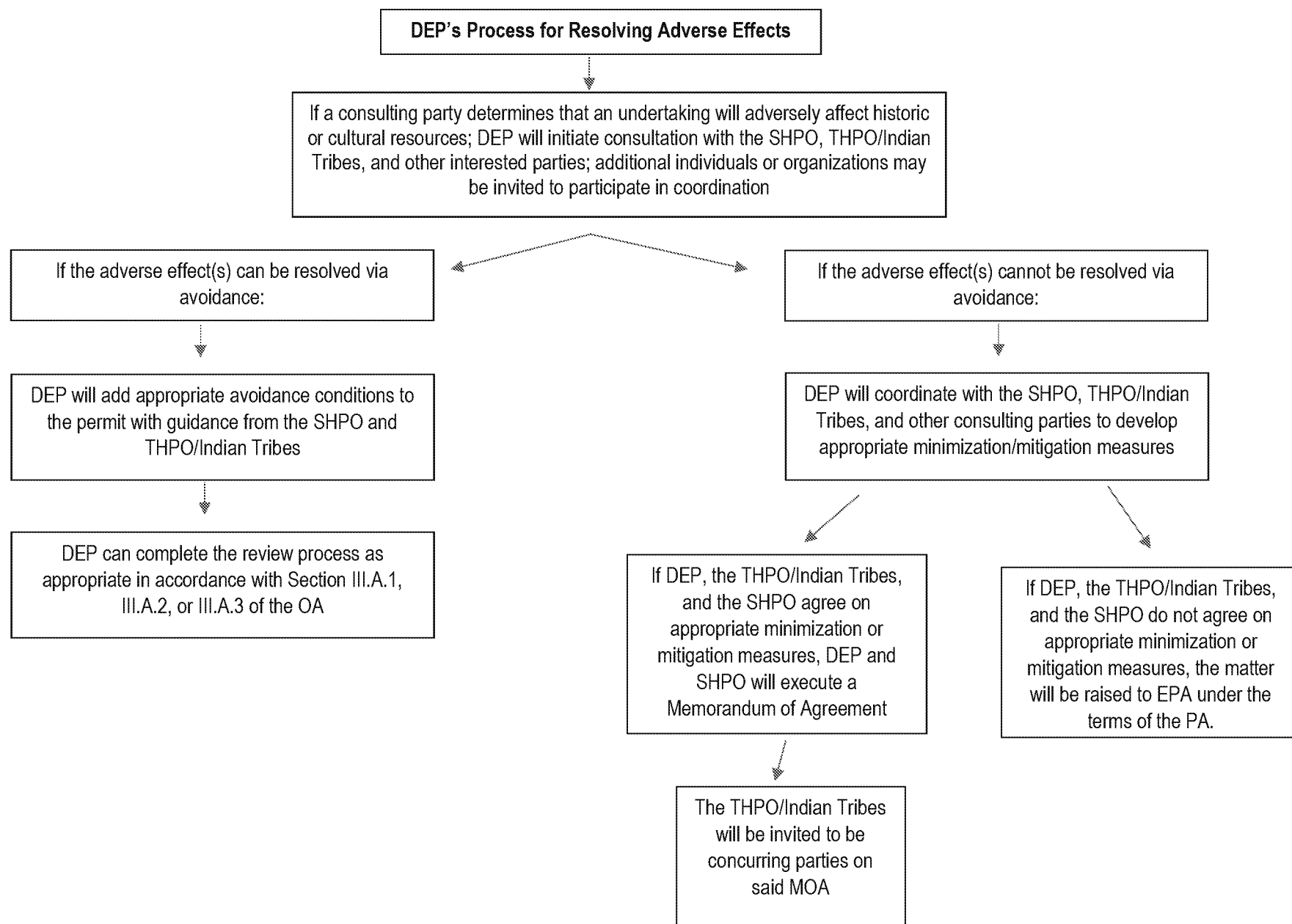
FDEP satisfies EPA comments, objections or recommendations within 90 days?

YES

FDEP may issue the permit.

NO

FDEP denies the permit, or the authority to issue the permit is transferred to the Corps.



Final Agency Action

- When deciding whether to issue or deny a State 404 permit application, DEP must consider the effects of the proposed activity on historic and cultural properties; these effects are identified by commenting agencies and Tribes during the application review process
- DEP cannot issue a State 404 permit where adverse effects to historic properties remain unresolved
- All DEP decisions on whether to issue a permit are challengeable under 62-331.010(11), *Florida Administrative Code*
- All issued State 404 Permits will include the following clause: *"In the event of an unanticipated discovery, effects to historic resources, or the identification of unmarked human remains, the Department shall notify the SHPO and THPO/Indian Tribes on the same day the Department is notified by the permittee. Activity authorized by the permit shall not resume without written authorization from the Department, SHPO, and THPO/Indian Tribes."*